

REMARKS

Summary of Office Action

Claims 29-50 are pending in this application.

The Examiner rejected claims 29, 31, 33, 34, 45, 47, 49, and 50 under 35 U.S.C. § 103(a) as being obvious from Forsberg et al. U.S. Patent No. 6,807,797 (hereinafter "Forsberg") in view of Tischlinger U.S. Patent No. 4,059,109 (hereinafter "Tischlinger").

Claims 37-39, 41, 43, and 44 were rejected under 35 U.S.C. § 103(a) as being obvious from Forsberg and Tischlinger in view of Odell et al. U.S. Patent No. 6,263,641 (hereinafter "Odell").

Dependent claims 30, 40, and 46 were rejected under 35 U.S.C. § 103(a) as being obvious from Forsberg/Tischlinger/Odell in view of Geprägs U.S. Patent No. 4,781,701 (hereinafter "Geprägs").

And claims 32, 34-36, 42, 45, and 47-50 were rejected under 35 U.S.C. § 103(a) as being obvious from Tanaka et al. U.S. Patent No. 5,716,339 (hereinafter "Tanaka").

Summary of Applicants' Reply

Applicants have amended claims 29, 39, 45, and 49 to more particularly point out and distinctly claim the subject matter that applicants regard as the invention.

No new matter has been added.

Reconsideration of this application in view of the following remarks is respectfully requested.

Rejections of Claims 29, 31, 33, 34, 45, 47, 49, and 50 Under 35 U.S.C. § 103(a)

Claims 29, 31, 33, 34, 45, 47, 49, and 50 have been rejected under 35 U.S.C.

§ 103(a) as being obvious from Forsberg in view of Tischlinger.

These rejections are respectfully traversed.

Independent Claim 29

Independent claim 29 has been amended to require the inserted seal structure to have a moveable sealing plug operative to move from a sealing position to a by-pass area within the seal structure to open a flow path through the seal structure. Support for this amendment is found, *e.g.*, in FIG. 9 (the elected species, *see* applicants' November 7, 2005 Reply To Office Action) and in the specification (*see, e.g.*, paragraph 63, lines 2-5).

In Forsberg's method, a middle piston 3 is inserted into barrel 1. Piston 3 has no moveable sealing plug and has no need for such a sealing plug because barrel 1 has an enlarged bypass 4 area that allows a solvent in rear chamber 6 to flow around piston 3 and into front chamber 5 when piston 3 is moved into that area.

Tischlinger has a rupturable diaphragm assembly 18 positioned within barrel 12 between the ends of the barrel. Diaphragm assembly 18 has a needle 100, a central opening 94, and a flexible wall 96 initially sealing the central opening. Deflection of the wall 96 causes the needle to puncture the wall, opening a flow path through the diaphragm assembly.

Applicants' moveable sealing plug is advantageous over the rupturable diaphragm assembly of Tischlinger because unlike the puncturing of Tischlinger's flexible wall 96, movement of applicants' sealing plug does not result in the possibility of cored material from the punctured flexible wall (1) flowing into a patient along with the medicament solution or

(2) restricting or blocking the flow of medicament solution because of its lodgment in the needle or cannula.

In sum, the combination of Forsberg and Tischlinger does not result in applicants' invention as defined in amended independent claim 29, and therefore, claim 29 is not obvious from that combination and should be allowable.

For at least these reasons, dependent claims 31, 33, and 34, which depend either directly or indirectly from independent claim 29, should also be allowable (*i.e.*, dependent claims are allowable if their independent claim is allowable).

Independent Claim 45

Independent claim 45 has also been amended to require the inserted seal structure to have a moveable sealing plug operative to move from a sealing position to a by-pass area within the seal structure to open a flow path through the seal structure.

Claim 45 is therefore not obvious from the combination of Forsberg and Tischlinger for the same reasons as claim 29 and should thus be allowable.

Dependent claims 47, 49, and 50, which depend from independent claim 45, should also be allowable (*i.e.*, dependent claims are allowable if their independent claim is allowable).

Accordingly, applicants respectfully request that the rejections of claims 29, 31, 33, 34, 45, 47, 49, and 50 under 35 U.S.C. § 103(a) be withdrawn.

Rejections of Claims 37-39, 41, 43, and 44 Under 35 U.S.C. § 103(a)

Claims 37-39, 41, 43, and 44 have been rejected under 35 U.S.C. § 103(a) as being obvious from Forsberg and Tischlinger in view of Odell.

These rejections are respectfully traversed.

For at least the same reasons as discussed above regarding independent claim 29, dependent claims 37 and 38, which depend directly and indirectly from claim 29, respectively, should also be allowable (*i.e.*, dependent claims are allowable if their independent claim is allowable).

Independent Claim 39

And also for at least the same reasons, independent claim 39, which has been amended to require the inserted seal structure to have a moveable sealing plug operative to move from a sealing position to a by-pass area within the seal structure to open a flow path through the seal structure, is also not obvious from the combination of Forsberg and Tischlinger.

Odell purportedly discloses methods of manufacturing drug delivery and drug container devices in clean, substantially particulate-free areas and, accordingly, does not make up for the deficiencies of Forsberg and Tischlinger.

Thus, the combination of Forsberg, Tischlinger, and Odell does not render amended claim 39 obvious and, therefore, claim 39 should be allowable.

For at least these reasons, dependent claims 41, 43, and 44, which depend from independent claim 39, should also be allowable (*i.e.*, dependent claims are allowable if their independent claim is allowable).

Accordingly, applicants respectfully request that the rejections of claims 37-39, 41, 43, and 44 under 35 U.S.C. § 103(a) be withdrawn.

Rejections of Claims 30, 32, 34-36, 40, 42, and 45-50 Under 35 U.S.C. § 103(a)

Claims 30, 40, and 46 have been rejected under 35 U.S.C. § 103(a) as being obvious from Forsberg/Tischlinger/Odell in view of Geprägs. Claims 32, 34-36, 42, 45, and 47-50 have been rejected under 35 U.S.C. § 103(a) as being obvious from Tanaka.

These rejections are respectfully traversed.

Geprägs was cited because it purportedly discloses a front syringe barrel with a tapered flow path.

Tanaka was cited because it purportedly discloses a rear chamber filled first with a substance and a front chamber filled next with a dry medication.

Accordingly, neither Geprägs nor Tanaka makes up for the deficiencies of Forsberg and Tischlinger as discussed above with respect to amended independent claims 29, 39, and 45.

Therefore, any combination of Forsberg, Tischlinger, Odell, Geprägs, and Tanaka does not render obvious independent claims 29, 39, or 45.

For at least these same reasons, dependent claims 30, 32, 34-36, 40, 42, and 46-50, which depend directly or indirectly from one of claims 29, 39, or 45, should also be allowable (*i.e.*, dependent claims are allowable if their independent claim is allowable).

Accordingly, applicants respectfully request that the rejections of claims 30, 32, 34-36, 40, 42, and 45-50 under 35 U.S.C. § 103(a) be withdrawn.

Conclusion

The foregoing demonstrates that claims 29-50 are allowable. This application is

therefore in condition for allowance. Reconsideration and allowance are accordingly respectfully requested.

Respectfully submitted,

/Garry J. Tuma/

Garry J. Tuma
Registration No. 40,210
Attorney for Applicants
JONES DAY
Customer No. 20583
222 East 41st Street
New York, New York 10017
(212) 326-3939